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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOHN HAMILTON MACILWAINE, PATRICK STAN,
KIRSTEN E. GAREN, MARK CARLSON, GEORGE WILLIAM
COOMBES IV, SURENDRA KESHAN, and RUSSELL P. ZINK

Appeal 2016-005614
Application 12/849,801
Technology Center 3600

Before JOHN A. EVANS, STEVEN M. AMUNDSON, and JASON M.
REPKO, *Administrative Patent Judges*.

EVANS, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants¹ seek our review under 35 U.S.C. § 134(a) from the Examiner's final rejection of Claims 1–7, 9–15, 17, and 18. App. Br. 2. Claims 8, 16, 19, and 20 are canceled. Claims App'x.

We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.²

¹ Appellants state the real party in interest is Visa, Inc. App. Br. 2.

² Rather than reiterate the arguments of the Appellants and the Examiner, we refer to the Appeal Brief (filed October 13, 2015, "App. Br."), the Reply Brief (filed May 2, 2016, "Reply Br."), the Examiner's Answer (mailed

STATEMENT OF THE CASE

The claims relate to a method of presenting advertising to a user. *See* Abstract.

INVENTION

Claims 1, 17, and 18 are independent. An understanding of the invention can be derived from a reading of Claim 1, which is reproduced below:

1. A computer-implemented method, comprising:
 - presenting, by a computing apparatus over a network, an advertisement within a web page via a web browser operating on a computing device of a user, wherein the advertisement provides an offer that includes one or more of the following for future purchase transaction by the user: a discount, a rebate, and a reward;
 - receiving, by the computing apparatus over the network, a selection of a first portion of the advertisement by the user via the web browser on the user's computing device;
 - in response to the selection of the first portion of the advertisement by the user, presenting, by the computing apparatus via the web browser on the user's computing device, a user interface that includes a selectable option for associating the offer with a financial account of the user;
 - receiving, by the computing apparatus over the network, a selection of the option for associating the offer with the user's financial account via the user interface;

March 2, 2016, "Ans."), the Final Action (mailed May 13, 2015, "Final Act."), and the Specification (filed August 3, 2010, "Spec.") for their respective details.

in response to receiving the selection of the option for associating the offer with the user's financial account, associating the offer with the financial account of the user;

monitoring, by the computing apparatus, transactions processed by a transaction handler to identify a purchase transaction that uses the financial account of the user for a purchase that is eligible for the offer; and

in response to identifying the purchase transaction eligible for the offer, automatically applying the offer to the identified purchase transaction.

References and Rejections

Boyd, et al.,	US 2004/0193489 A1	Sept. 30, 2004
Kaplan, et al.,	US 2007/0156517 A1	July 5, 2007
Fordyce	US 2008/0059303 A1	Mar. 6, 2008

The claims stand rejected as follows:

1. Claims 1–7, 9–15, 17, and 18 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Final Act. 8–11.
2. Claims 1, 2, 4–7, 9, 12, 13, 15, 17, and 18 stand rejected under 35 U.S.C. § 102(b) as anticipated by Boyd. Final Act. 11–20.
3. Claims 3, 11, and 14 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Boyd and Fordyce. Final Act. 20–23.
4. Claim 10 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Boyd, Fordyce, and Kaplan. Final Act. 23–25.

ANALYSIS

We have reviewed the rejections of Claims 1–7, 9–15, 17, and 18 in light of Appellants’ arguments that the Examiner erred. We have considered in this Decision only those arguments Appellants actually raised in the Brief. Any other arguments which Appellants could have made but chose not to make in the Brief are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). We are not persuaded that Appellants identify reversible error.

Upon consideration of the arguments presented in the Appeal Brief, we do not agree with Appellants that the claims are patentable under 35 U.S.C. §§ 101 and/or 103. With respect to the rejections, we adopt as our own the findings and reasons set forth in the rejection from which this appeal is taken and in the Examiner’s Answer, to the extent consistent with our analysis below. We provide the following explanation to highlight and address specific arguments and findings primarily for emphasis. We consider Appellants’ arguments *seriatim*, as they are presented in the Appeal Brief, pages 6–24.

CLAIMS 1–3, 5, 10, 15, 17, AND 18: ANTICIPATION BY BOYD AND/OR OBVIOUSNESS OVER BOYD, FORDYCE, AND KAPLAN.

Appellants argue the anticipation and obviousness rejections of these claims as a group in view of the, assertedly commensurate, recitations of independent Claims 1, 17, and 18. App. Br. 6–13.

A user interface that includes a selectable option for associating the offer with a financial account of the user.

The Examiner finds Boyd anticipates independent Claims 1, 17, and 18 including the claimed step of having a computer and web browser present a user interface that includes a selectable option. Final Act. 13. The Examiner finds the claim recitation “for associating the offer with a financial account of the user” to be a statement of intended use, which is not entitled to patentable weight. *Id.* at 13–14. The Examiner finds the nature of the content, or choice of financial offer, has no impact on the step of presenting a user interface. *Id.* at 14.

Appellants contend that the accused recitation functions to define the claimed “selectable option.” App. Br. 8. Appellants argue the selectable option of an offer is presented and then selected and in response to its selection, the offer is associated with a financial account, thus, according to Appellants, the selectable option recitation defines the scope of the claims. *Id.*

The Examiner finds the claim language suggests, but does not require, steps to be performed because it is directed towards data that is assumed to be presented to the claimed invention. Ans. 10. The Examiner finds Appellants merely assume that such data exists and it is possible, but not required, that this type offering is used in presenting step. Therefore, the Examiner finds the selectable option is just non-functional descriptive material that is not entitled to patentable weight. *Id.* (citing MPEP §§ 2111, 2114.04). However, notwithstanding a finding that this recitation is not entitled to patentable weight, the Examiner finds Boyd discloses the claimed subject matter. Final Act. 14–15.

According to Appellants' analysis, "the 'ad' discussed in Par. [0137] of *Boyd* offers 'a certain number of incentive award points.' 'By clicking on the ad, the consumer's browser retrieves another web page which gives the consumer more information about the product/service/merchant info that was the focus of the ad.'" Reply Br. 6. However, Appellants contend Boyd's ad and webpage do not provide a selectable option to cause an association between an offer, provided in the ad, and a financial account belonging to the user. *Id.* Appellants argue that in contrast, clicking on Boyd's ad provides reward points in response to the consumer clicking on the ad to see the "information about the product/service/merchant info that was the focus of the ad." *Id.* Appellants continue, Boyd's selectable items are configured to allow the consumer to purchase a selected item using the points in the account of the consumer. *Id.*

We find Appellants' analysis proves the Examiner's case. Boyd's ad offers "a certain number of incentive award points" to be associated with a customer account. Clicking on the ad retrieves another web page which gives the consumer more information about the product/service/merchant info that was the focus of the ad, i.e., a "selectable option." Further, the ad offers "a certain number of incentive award points." By clicking on the ad, the consumer's browser retrieves another web page which gives the consumer more information about the product/service/merchant info that was the focus of the ad. Activating that "selectable option" causes an association between an offer, i.e., the incentive award points, and a financial account belonging to the user, i.e., a database storing that consumer's incentive points. The claims do not specify the nature of the "offer," nor do they limit the financial account.

Monitoring . . . transactions processed by a transaction handler.

Appellants contend Boyd fails to disclose

monitoring, by the computing apparatus, transactions processed by a transaction handler to identify a purchase transaction that uses the financial account of the user for a purchase that is eligible for the offer; and in response to identifying the purchase transaction eligible for the offer, automatically applying the offer to the identified purchase transaction

as commensurately recited in independent Claims 1, 17, and 18. App. Br.

12. Appellants argue Boyd discloses a financial account external to, and not controllable by, his system. *Id.* at 12–13.

The Examiner finds Boyd discloses a merchant will issue points to the user when the user's credit card is charged for a purchase, thus disclosing the accused limitation. Final Act. 12.

In view of the foregoing, we sustain the rejection of Claims 1–3, 5, 10, 15, 17, and 18, as anticipated or obvious.

CLAIM 4: ANTICIPATION BY BOYD.

Claim 1 recites an advertisement comprising a first portion. Claim 4 recites a second portion that when selected causes the apparatus to direct the user to a website of the advertiser. Appellants contend Boyd discloses clicking on an ad, but fails to disclose the ad having first and second portions the respective activation of which cause differing activities. App. Br. 14.

The Examiner finds this limitation at paragraph 137 of Boyd. Ans. 17.

We find no disclosure in the cited portion of Boyd relating to first and second portions of an ad. Therefore, we decline to sustain the rejection of Claim 4.

CLAIM 6: ANTICIPATION BY BOYD.

Appellants contend Boyd fails to disclose “selecting, by the computing apparatus, the advertisement for presentation to the user based on at least one transaction in the account of the user processed by the transaction handler.” App. Br. 14; Reply Br. 8.

The Examiner finds Boyd teaches that when a user selects an advertisement, a merchant will issue points when the user’s credit card is subsequently charged to make a related purchase. Ans. 14. We are not persuaded the Examiner errs.

Appellants further argue the Examiner fails to explain how Boyd discloses “how the ‘ad’ is selected for presentation to the consumer in the ‘website, preferably [*sic*, “preferably”] a high traffic site such as Yahoo’s Internet portal.” Reply Br. 9. We decline to reach this argument which was presented for the first time in the Reply Brief. “Any bases for asserting error, whether factual or legal, that are not raised in the principal brief are waived.” *Ex parte Borden*, 93 USPQ2d 1473, 1474 (BPAI 2010) (informative) (“[T]he reply brief [is not] an opportunity to make arguments that could have been made in the principal brief on appeal to rebut the Examiner’s rejections, but were not”).

CLAIM 7: ANTICIPATION BY BOYD.

Appellants contend Boyd fails to disclose “presenting, by the computing apparatus, an advertiser user interface to the advertiser to manage

creation and distribution of the offer prior to presentation of the offer to the user,” as recited in Claim 7. App. Br. 14. Appellants argue the cited portions of Boyd are unrelated to the disputed limitation. *Id.* at 15.

The Examiner cites Boyd, Figs. 14D and 14E and paragraph 48. Ans. 15. These figures relate to webpages shown to a user, but have no relation to pages that may be shown to an advertiser. *See* Boyd, ¶ 48 (cited by the Examiner). The Examiner also cites Boyd paragraphs 207, 319, 320, and 420, but it is unclear how these disparate disclosures are meant to relate to the disclosures of Figures 14D and E and paragraph 48. We are persuaded of error.

CLAIM 9: ANTICIPATION BY BOYD.

Appellants contend Boyd fails to disclose “aggregating . . . a plurality of purchase transactions using the financial account of the user to determine eligibility for the benefit of the offer,” as recited in Claim 9. App. Br. 15.

The Examiner finds Boyd discloses that where a point total is below the redemption threshold, the customer may be motivated to take some action to earn enough points so that he may redeem them. Ans. 16 (citing Boyd, ¶ 19).

Appellants argue Boyd fails to disclose aggregation of “a plurality of purchase transactions,” as claimed. Reply Br. 10 (citing Boyd, ¶ 136).

Boyd discloses:

[I]f the point total is below the redemption threshold, the customer may be motivated to take some action (e.g., purchasing a product, clicking on an ad, registering with a website) to earn enough points so that he may redeem them and not subject his already-earned points to expiration.

Boyd, ¶ 19 (cited by the Examiner).

We find the cited passage discloses aggregation of a plurality of transactions, as claimed. We are not persuaded the Examiner errs.

CLAIM 11: OBVIOUSNESS OVER BOYD AND FORDYCE.

Appellants argue the Boyd “system is completely divorced from the issuer handling the credit card transaction, it just awards the reward points.”

App. Br. 16. Appellants argue that

regardless of the teachings of Fordyce, there is no motivation to undergo a drastic overhaul of Boyd’s principle of operation from a “points account” that simply charges a credit card handled by a third party to create a “transaction handler . . . [that makes] a payment from an issuer to an acquirer,”

as recited in Claim 11. *Id.*

Appellants contend Boyd’s webpages do not show any means to associate an advertised offer and a consumer credit card and, in fact, are limited to the use of Boyd’s loyalty reward account. Reply Br. 10.

Appellants argue Fordyce does not apply to the use of a loyalty reward account to purchase items using Boyd’s webpages. *Id.*

The Examiner relies on a combination of Boyd and Fordyce. *See* Final Act. 22; Ans. 19–20. Specifically, the Examiner finds Fordyce teaches a payment transaction process between the issuer, acquirer, and the merchant. Final Act. 22. “[O]ne cannot show non-obviousness by attacking references individually where . . . the rejections are based on combinations of references.” *In re Keller*, 642 F.2d 413, 426 (CCPA 1981). We are not persuaded the Examiner errs.

CLAIM 12: ANTICIPATION BY BOYD.

Appellants contend that the cited portions of Boyd (Fig. 14A; ¶¶ 137, 419) fail to disclose “includes the advertisement without the first portion,” as recited in Claim 12. App. Br. 17.

The Examiner finds Boyd discloses a “user interface showing the advertisement itself.” Ans. 17 (citing Boyd, Figs. 14A, D; ¶¶ 48, 179, and 419).

Our review of the cited portions of Boyd fail to find any disclosure relating to a portion (first or second) of an advertisement. We are thus constrained by the record to reverse the rejection of Claim 12.

CLAIM 13: ANTICIPATION BY BOYD.

Appellants contend that the cited portions of Boyd (¶¶ 112, 136, 415) fail to disclose “identifying, by the computing apparatus, the financial account of the user based on a browser cookie received from the web browser operating on the user’s computing device.” App. Br. 17.

Appellants argue Boyd discloses the types of account information available for a rewards account and discloses “cookies may be used to store state information.” Appellants argue Boyd fails to disclose identifying the user’s financial account based on a cookie. *Id.*

The Examiner finds Boyd uses cookies to identify the credit card associated with a transaction. Ans. 17 (citing Boyd, ¶ 415). The Examiner finds Boyd discloses cookies may store state information relevant to the user’s account. *Id.* at 17–18.

Appellants’ Reply Brief argues how various limitations of Claim 1 operate with the limitations of Claim 13 and contends the Examiner fails to address this interaction. Reply Br. 11.

We decline to reach this argument which was presented for the first time in the Reply Brief. “Any bases for asserting error, whether factual or legal, that are not raised in the principal brief are waived.” *Ex parte Borden*, 93 USPQ2d 1473, 1474 (BPAI 2010) (informative) (“[T]he reply brief [is not] an opportunity to make arguments that could have been made in the principal brief on appeal to rebut the Examiner’s rejections, but were not”). We are not persuaded of error.

CLAIM 14: OBVIOUSNESS OVER BOYD AND FORDYCE.

Appellants contend that the cited portion of Fordyce (¶ 27) fails to disclose “wherein presenting the user interface includes displaying a selectable list of financial accounts identified using the browser cookie to allow the user to select an account to associate with the offer.” App. Br. 18. Appellants argue Fordyce merely describes the selection of “a reward that is to be a statement credit back to their account,” but that Fordyce fails to teach displaying the “selectable list of financial accounts” recited in Claim 14, much less displaying a selectable list of accounts identified using a browser cookie. *Id.*

The Examiner’s *prima facie* case is constructed from the combined teachings of Boyd and Fordyce (Ans. 20–21), whereas Appellants limit their traversal to the alleged shortcomings of Fordyce. *See* App. Br. 18. “[O]ne cannot show non-obviousness by attacking references individually where . . . the rejections are based on combinations of references.” *In re Keller*, 642 F.2d 413, 426 (CCPA 1981). We are not persuaded the Examiner errs.

CLAIMS 1–7, 9–15, 17, AND 18: NON-STATUTORY SUBJECT MATTER.

USPTO Eligibility Guidance.

Appellants compare their claims to various Example claims set forth in various USPTO guidance documents and, based on such comparisons, Appellants contend their claims are subject-matter eligible under 35 U.S.C. § 101. *See* App. Br. 18–22.

With respect to internal USPTO Guidance, we note:

This Interim Eligibility Guidance does not constitute substantive rulemaking and does not have the force and effect of law. This Interim Eligibility Guidance sets out the Office’s interpretation of the subject matter eligibility requirements of 35 U.S.C. 101 in view of recent decisions by the Supreme Court and the U.S. Court of Appeals for the Federal Circuit (Federal Circuit), and advises the public and Office personnel on how these court decisions impact the provisions of MPEP 2105, 2106 and 2106.01. This Interim Eligibility Guidance has been developed as a matter of internal Office management and is not intended to create any right or benefit, substantive or procedural, enforceable by any party against the Office. Rejections will continue to be based upon the substantive law, and it is these rejections that are appealable. Failure of Office personnel to follow this Interim Eligibility Guidance is not, in itself, a proper basis for either an appeal or a petition.

USPTO, “Interim Guidance on Patent Subject Matter Eligibility,” 79 (No. 241) Fed. Reg. 74618, 74619 (2014) (emphasis added) (“2014 Guidance”). Our analysis is limited to the applicable case law. “Rejections will continue to be based upon the substantive law, and it is these rejections that are appealable.” 2014 Guidance 74619.

Related Case Law.

Appellants argue all claims as a group in view of the limitations of independent Claim 1. App. Br. 24. R. 79.

Appellants contend their claims recite eligible subject matter by analogy to *PNC Bank v. Secure Access* (CBM2014-00100) (a “computer-implemented method to transform data in a particular manner”); *DDR Holdings, LLC. vs. Hotels.com*, Appeal No. 2013-1505 (Fed. Cir. Dec. 5, 2014) (holding the claims “did not merely recite the performance of some business practice known from the pre-Internet world,” but were instead “necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks”). App. Br. 22–23.

Appellants argue the independent claims recite, *inter alia*:

- (1) the presentation of an “advertisement within a web page via a web browser operating on a computing device of a user”;
- (2) receiving a selection of a portion of the advertisement;
- (3) presenting a custom user interface, via a web browser, in response to the selection of a portion of an advertisement in an Internet web page that allows a user to associate an offer in the Internet advertisement with the user’s financial account; and
- (4) automatically applying the offer to an eligible purchase transaction made using the financial account.

App. Br. 20. Appellants contend these features, taken as an ordered combination, constitute “meaningful limitations that . . . solve an Internet-centric problem with a claimed solution that is necessarily rooted in computer technology.” *Id.* at 21.

35 U.S.C. § 101.

Section 101 provides that a patent may be obtained for “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.” 35 U.S.C. § 101. The Supreme Court has long recognized, however, that § 101 implicitly excludes “laws of nature, natural phenomena, and abstract ideas” from the realm of patent-eligible

subject matter, as monopolization of these “basic tools of scientific and technological work” would stifle the very innovation that the patent system aims to promote. *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014) (quoting *Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 133 S. Ct. 2107, 2116 (2013)); see also *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72–77 (2012); *Diamond v. Diehr*, 450 U.S. 175, 185 (1981).

Alice Step 1.

The Supreme Court has instructed us to use a two-step framework to “distinguish[] patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice*, 134 S. Ct. at 2355. At the first step, we determine whether the claims at issue are “directed to” a patent-ineligible concept. *Id.*

The Examiner finds claims are directed towards the concept of a method of associating an offer with a financial account and redeeming the offer which the Examiner finds is an abstract idea. Final Act. 9. Specifically, the Examiner finds that, analyzed apart from any technology, the claims are simply a series of steps for organizing human activities, for example, presenting an offer, receiving user selection of an offer, associating the offer with the user, monitoring purchase transaction, and applying the offer, and therefore, the claims are drawn to an abstract idea. *Id.*

Appellants contend that presentation of a web page advertisement, receiving a selection of a first portion of the web page advertisement, and presentation of the user interface “via the web browser on the user’s computing device” are all inherently “Internet-centric,” “rooted in computer technology,” and confined to “a particular useful application.” App. Br. 21.

Appellants argument does not traverse a finding that the claims are “directed to” a patent-ineligible concept, as required by Step 1 of the *Alice* analysis. Rather, Appellants’ argument implicates Step 2 of the *Alice* analysis.

Alice Step 2.

Where, as here, the claims are found to be “directed to” a patent-ineligible concept, we then “consider the elements of each claim both individually and ‘as an ordered combination’ to determine whether the additional elements ‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 566 U.S. at 79). This analysis has been characterized as the search for an “inventive concept”—something sufficient to ensure that the claim amounts to “significantly more” than the abstract idea itself. *Id.* (quoting *Mayo*, 566 U.S. at 71–72).

Appellants contend the claimed features, taken as an ordered combination, constitute “meaningful limitations that . . . solve an Internet-centric problem with a claimed solution that is necessarily rooted in computer technology.” App. Br. 21. Appellants argue that presentation of a web page advertisement, receiving a selection of a first portion of the web page advertisement, and presentation of the user interface “via the web browser on the user’s computing device” are all inherently “Internet-centric,” “rooted in computer technology,” and confined to “a particular useful application.” *Id.* Appellants believe their claims recite eligible subject matter because the Federal Circuit has held that claims recite patent-eligible subject matter because they “did not merely recite the performance of some business practice known from the pre-Internet world,” but were instead “necessarily rooted in computer technology in order to

overcome a problem specifically arising in the realm of computer networks.” *Id.* at 23 (citing *DDR Holdings, LLC v. Hotels.com*, 773 F.3d 1245 (Fed. Cir. 2014)).

The Federal Circuit’s analysis begins “with an examination of eligible and ineligible claims of a similar nature from past cases.” *Amdocs (Israel) Ltd., v. Openet Telecom, Inc.*, 841 F.3d 1288, 1295 (Fed. Cir. 2016). In contrast to *DDR Holdings*, claims were held invalid as directed to an abstract idea where they “d[id] not claim a particular way of programming or designing the software . . . but instead merely claim the resulting systems.” *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1240–41 (Fed. Cir. 2016). Similarly, claims were held to be abstract and patent-ineligible because there was nothing in the claims “directed to *how* to implement [the idea]. Rather, the claim is drawn to the idea itself.” *Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1258 (Fed. Cir. 2016). Appellants contend their claims are “rooted in computer technology” (App. Br. 21), but fail to show specifically *how* their ideas are implemented with, for example, a particular way of programming or designing the software. *See Affinity Labs*, 838 F.3d 1258; *Ameranth*, 842 F.3d 1240–41. Claims are also found to be abstract and patent ineligible where, as here, there is “no restriction on how the result is accomplished . . . and the mechanism . . . is not described.” *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1316 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1348 (Fed. Cir. 2015)).

Appellants further argue their claims are patent eligible because the claims are both novel and non-obvious. App. Br. 23. However, the Court “decline[d] the Government’s invitation to substitute §§ 102, 103, and 112

inquiries for a better established inquiry under § 101.” *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 91 (2012). We must therefore, decline Appellants’ invitation.

We find the claims are not patent eligible under 35 U.S.C. § 101.

DECISION

The rejection of Claims 1–7, 9–15, 17, and 18 under 35 U.S.C. § 101 is AFFIRMED.

The rejection of Claims 1, 2, 5, 6, 9, 13, 15, 17, and 18 under 35 U.S.C. § 102 is AFFIRMED.

The rejection of Claims 4, 7, and 12 under 35 U.S.C. § 102 is REVERSED.

The rejection of Claims 3, 10, 11, and 14 under 35 U.S.C. § 103 is AFFIRMED.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(iv).

Because we have affirmed at least one ground of rejection with respect to each claim on appeal, the Examiner’s decision is affirmed. *See* 37 C.F.R. § 41.50(a)(1).

AFFIRMED